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6 Attorneys for *Specially Appearing Defendant*  
BUMBO (PTY) LTD.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

20 PLEASE TAKE NOTICE that on March 24, 2008, at 2:00 p.m., or as soon  
21 thereafter as the matter may be heard, in Courtroom 15, before the Hon. Marilyn  
22 Hall Patel, defendant Bumbo (Pty) Ltd. shall and hereby does respectfully move  
23 this Court to dismiss this action pursuant to Fed. R. Civ. P. 12(b)(2) and 12(b)(5).  
24 Bumbo (Pty) Ltd.'s motion is based upon this Notice of Motion and Motion, the  
25 following Memorandum of Points and Authorities, Declarations of Jennifer J.  
26 Johnston and Antoinette Wagenaar, the Complaint, and such additional matters as  
27 may be judicially noticed or properly come before this Court prior to or at the

1 hearing on this matter.  
2

3 Dated: February 14, 2008

CONDON & FORSYTH LLP

5 By: s/Jennifer J. Johnston

6 ROD D. MARGO  
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# MEMORANDUM OF POINTS AND AUTHORITIES

## INTRODUCTION

On February 11, 2008, an Affidavit of Service (“Affidavit”) was filed by plaintiff’s counsel in this action. This Affidavit purports service of process on defendant Bumbo (Pty) Ltd. (“Bumbo-Pty”) by personal service in South Africa. Just like the other affidavits filed by plaintiffs’ counsel in this action, as well as the related case of *Lamm v. Bumbo, et al.*, Case No. CV 07-4807, the subject Affidavit, once again, reflects plaintiff’s ineffective attempt at service on Bumbo-Pty. Bumbo-Pty brings this motion to quash service and to dismiss for insufficient service of process and lack of personal jurisdiction.

After previously claiming to have served “Bumbo” in this action, plaintiff now claims that she has successfully served Bumbo-Pty in South Africa. Contrary to plaintiff’s Affidavit, Bumbo-Pty appears to have received the summons and complaint by DHL International and not by personal service as alleged. Delivery by DHL International courier service is not proper service. However, even if plaintiff did personally deliver the summons and complaint to Bumbo-Pty, this service would *still* be improper. Plaintiff has failed to effectively serve Bumbo-Pty, and this Court lacks personal jurisdiction over Bumbo-Pty.<sup>1</sup>

Due to the fact that neither delivery by DHL *nor* personal service is the proper way to serve a South African corporation under the Federal Rules of Civil Procedure, as well as the fact that Bumbo-Pty has been forced to continuously spend time and money filing motions to quash and dismiss due to the inability of plaintiff and her counsel to follow the Federal Rules of Civil Procedure, Bumbo-

<sup>1</sup> Previously in this action, plaintiff purportedly served Mark Buchanan, an officer of Wartburg Enterprises, Inc. (“Wartburg”), a Florida corporation with its principal place of business in Texas, as “owner” for “Bumbo Limited.” After Bumbo-Pty filed a motion to quash/dismiss, plaintiff attempted service again and filed the subject Affidavit. Plaintiff still has yet to withdraw the previous affidavit. It appears that plaintiff is willing to try any number of tactics to effect service. The only tactic she has yet to try is the proper technique for actually serving a South African corporation.

1 Pty's motion to dismiss this action pursuant to Federal Rule of Civil Procedure  
 2 12(b)(5) should be granted.

3 Further, Bumbo-Pty seeks dismissal of the action based on the absence of  
 4 personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2).  
 5 Bumbo-Pty is not subject to general or specific personal jurisdiction in California.

6 **FACTUAL AND PROCEDURAL BACKGROUND**

7 Plaintiff, on behalf of herself and a purported nationwide class of all  
 8 purchasers of a product called the Bumbo Baby Sitter, has filed this class action.

9 The Bumbo Baby Sitter is manufactured by Bumbo-Pty. Plaintiff has named  
 10 Bumbo, Bumbo Limited, Bumbo (Pty) Ltd. and Target Corporation as defendants.  
 11 ("Bumbo" and "Bumbo Limited" are non-existent entities.)

12 Target has appeared in this action and has not contested the Court's  
 13 jurisdiction as to the claims against it.

14 As set forth in detail in an earlier motion to set aside default for insufficient  
 15 service and lack of personal jurisdiction, plaintiff made an ineffective attempt to  
 16 serve Bumbo-Pty by serving the summons and complaint on Wartburg Enterprises,  
 17 Inc., a corporation which is separate and distinct from Bumbo-Pty and which is not  
 18 authorized to accept service of process on behalf of Bumbo-Pty. (See Amended  
 19 Motion to Set Aside Default, Quash Service, Dismiss for Improper Service,  
 20 scheduled for hearing on March 10, 2008, before this Court.)

21 Apparently recognizing that the service of the summons and complaint on  
 22 Wartburg Enterprises, Inc. was ineffective, plaintiff (while a motion to lift  
 23 default/quash/dismiss is pending) has made a further improper attempt at service  
 24 and improperly filed another Affidavit of Service with the Court representing that  
 25 service was effected on Bumbo-Pty.

26 On February 11, 2008, plaintiff filed the subject Affidavit in this action.  
 27 (See Exhibit "A", attached to Declaration of Jennifer J. Johnston). The Affidavit

1 alleges that “Neil Thuynsma,” an individual located at 65 Park Lane, 1 Sandton  
 2 Close, Block B, 2<sup>nd</sup> Floor, Sandown, South Africa, personally served Bumbo-Pty  
 3 with the summons and complaint in this action.<sup>2</sup> (*Ibid.*) Although moving party  
 4 does not know Mr. Thuynsma or recognize the name, Bumbo-Pty believes that the  
 5 address listed is that of SABMiller, a brewery located near Bumbo-Pty’s corporate  
 6 office. (See Exhibit “B” to Johnston Decl.) In addition, it appears that  
 7 Mr. Thuynsma works for SABMiller, according to his Facebook profile publicly  
 8 displayed on the Internet. (See Exhibit “C” to Johnston Decl.)

9 Mr. Thuynsma’s Affidavit of Service states that he personally delivered the  
 10 summons and complaint on Antoinette Wagenaar, as agent for Bumbo-Pty, at  
 11 Bumbo-Pty’s headquarters in South Africa on January 25, 2008. Ms. Wagenaar,  
 12 who is employed at Bumbo-Pty’s corporate headquarters in Pretoria, South Africa,  
 13 understood that she was receiving a package via DHL International when she  
 14 signed for the package. Mr. Thuynsma’s Affidavit does not identify him as an  
 15 employee of DHL. It is unclear why Mr. Thuynsma’s Affidavit states that he  
 16 delivered the summons and complaint personally while Ms. Wagenaar understood  
 17 that the package was being delivered via DHL International. (See Declaration of  
 18 Antoinette Wagenaar to be submitted upon receipt of signed copy from South  
 19 Africa.) Regardless of how service was purportedly effected, by personal delivery  
 20 or by DHL, it was insufficient as it did not comply with the requirements for  
 21 service on a foreign corporation.

## 22 ISSUES TO BE DECIDED

23 1. Did plaintiff properly serve process on Bumbo-Pty, a foreign  
 24 corporation, under the Federal Rules of Civil Procedure by delivering the summons  
 25 and complaint to Bumbo-Pty either by personal delivery or by DHL International  
 26 courier service?

27 \_\_\_\_\_  
 28 <sup>2</sup> An Affidavit alleging the exact same facts regarding service was filed in the *Lamm* action.

2. Are there sufficient contacts between Bumbo-Pty, a South African corporation with no offices, property or employees in the United States and the state of California, to satisfy the Constitutional requirements for the exercise of personal jurisdiction over Bumbo-Pty in this venue?

## STANDARD

Federal Rule 12(b)(5) permits a challenge to the method of service attempted by plaintiffs. If a Rule 12(b)(5) motion is granted, the court may dismiss the action. *Montalbano v. Easco Hand Tools, Inc.*, 766 F.2d 737, 740 (2<sup>d</sup> Cir. 1985). Where the validity of service is contested by a Rule 12 motion, the burden is on plaintiff (the party claiming proper service has been effected) to establish the validity of service. *Norlock v. City of Garland*, 768 F.2d 654, 656 (5<sup>th</sup> Cir. 1985).

Under Rule 12(b)(2), a defendant may be dismissed from an action if the court determines that it does not have personal jurisdiction over the defendant. Again, although defendant is the moving party on the motion to dismiss, plaintiff is the party who invoked the court's jurisdiction. Therefore, plaintiff bears the burden of proof on the necessary jurisdictional facts; *e.g.*, the existence of "minimum contacts" between defendant and the forum state. *Rio Properties, Inc. v. Rio Int'l Interlink*, 284 F.3d 1007, 1019 (9<sup>th</sup> Cir. 2002).

## ARGUMENT

I

## **BUMBO-PTY SHOULD BE DISMISSED AS PLAINTIFF**

**HAS FAILED TO EFFECT SERVICE OF PROCESS ON BUMBO-PTY**

Plaintiff's attempted service of the summons and complaint on Bumbo-Pty was defective, and Bumbo-Pty should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(5).

An individual defendant, or in some cases, an entire action, may be dismissed when a plaintiff fails to properly serve the summons and complaint.

1 *Marshall v. Warwick*, 155 F.3d 1027, 1030 (8<sup>th</sup> Cir. 1998).

2 The Federal Rules of Civil Procedure pertaining to service upon  
 3 corporations provide that service made upon a foreign corporation at a place  
 4 not within any judicial district of the United States must be made in any  
 5 manner prescribed by Rule 4(f) for serving an individual in a foreign  
 6 country, *except personal delivery under (f)(2)(C)(i)*. *Fed. R. Civ. Proc.*  
 7 4(h)(2) (emphasis added).

8 Rule 4(f) provides that:

9 Unless federal law provides otherwise, an individual -  
 10 other than a minor, an incompetent person, or a person  
 11 whose waiver has been filed - may be served at a place  
 12 not within any judicial district of the United States:

13 (1) by any internationally agreed means of service  
 14 that is reasonably calculated to give notice, such as those  
 15 authorized by the Hague Convention on the Service  
 16 Abroad of Judicial and Extrajudicial Documents;

17 (2) if there is no internationally agreed means, or if  
 18 an international agreement allows but does not specify  
 19 other means, by a method that is reasonably calculated to  
 20 give notice:

21 (A) as prescribed by the foreign country's  
 22 law for service in that country in an action in its  
 23 courts of general jurisdiction;

24 (B) as the foreign authority directs in  
 25 response to a letter rogatory or letter of request; or

26 (C) unless prohibited by the foreign country's  
 27 law, by:

28 (i) delivering a copy of the summons  
 29 and of the complaint to the individual  
 30 personally; or

(ii) using any form of mail that the  
 31 clerk addresses and sends to the individual  
 32 and that requires a signed receipt; or

(3) by other means not prohibited by international agreement, as the court orders.

*Federal Rule of Civil Procedure 4(f).*

South Africa is not a party to any international convention on service, and service under Rule 4(f)(1) cannot be effected on Bumbo-Pty. Therefore, it appears that plaintiffs are claiming they effected service by Rule 4(f)(2)(C)(i) (personal delivery). However, Rule 4(h)(2) specifically prohibits service on foreign corporations by personal delivery. Thus, plaintiffs are required to serve Bumbo-Pty either under Rule 4(f)(2)(A) [method prescribed by foreign country's law for service] or (B) [as foreign authority directs in response to letter rogatory] or (C)(ii) [service by mail by clerk in manner not prohibited by the foreign country's law].

Plaintiff's attempted service has not complied with Rule 4(f)(2)(A) or (B) or Rule 4(f)(2)(C)(ii). First, plaintiff has not made any attempt to obtain service by a letter rogatory. Second, plaintiff has made no effort to serve Bumbo-Pty under the laws of South Africa. Lastly, plaintiff has made no attempt to obtain service with the clerk's assistance in a manner not prohibited by the laws of South Africa.

Although it is defendant's contention that a letter rogatory is the only legal and appropriate manner in which to serve Bumbo-Pty, plaintiff has certainly not met South Africa's very specific personal service requirements as required by 4(F)(2)(B). See *South Africa Uniform Rules of Court*, attached as Exhibit "D" to Johnston Decl. The rules of South Africa provide that any documentation initiating proceedings shall be effected by the Sheriff. Rule 4(1)(a) states:

Service of any process of the court directed to the sheriff and subject to the provisions of paragraph (aA) any document initiating application proceedings shall be effected by the sheriff in one or other of the following manners:

(v) in the case of a corporation or company, by delivering a copy to a responsible employee thereof at its registered office or its principal place of business within the court's jurisdiction, or if there be no such employee willing to accept service, by affixing a copy to the main door of such office or place of business, or in any manner provided by law.

## *South Africa Uniform Rules of Court, Rule 4.*

Rule 4(1)(d) further states:

It shall be the duty of the sheriff or other person serving the process or documents to explain the nature and contents thereof to the person upon whom service is being effected and to state in his return or affidavit or on the signed receipt that he has done so.

*Ibid.*

Based upon the information contained in the Affidavit, as well as Mr. Thuynsma’s Internet information, it does not appear that Mr. Thuynsma is a South African sheriff. Nor is there any representation that Mr. Thuynsma explained the “nature and contents” of the documents being served upon Bumbo-Pty. Unless a plaintiff properly serves a defendant with a summons and complaint, the court lacks personal jurisdiction over that defendant. *Jackson v. Hayakawa*, 682 F.2d 1344, 1347 (9<sup>th</sup> Cir. 1982). Neither actual notice of the complaint, nor simply naming the defendant in the caption, subjects a defendant to personal jurisdiction absent service that complies with Rule 4. *Ibid.*

Service of process should be quashed and Bumbo-Pty should be dismissed from this action due to plaintiff's failure to properly serve the summons and complaint.

II

**THIS COURT CANNOT EXERCISE *IN PERSONAM*  
JURISDICTION OVER BUMBO-PTY**

There are two limitations on the court's power to exercise personal jurisdiction over a nonresident defendant: (1) the applicable state or federal personal jurisdiction statute and (2) constitutional principles of due process. *Sher v. Johnson*, 911 F.2d 1357, 1360 (9<sup>th</sup> Cir. 1990). Where, as is the situation here,

1 there is no applicable federal statute governing personal jurisdiction, the law of the  
 2 state in which the district sits applies. *Core-Vent Corp. v. Nobel Industries AB*, 11  
 3 F.3d 1482, 1484 (9<sup>th</sup> Cir. 1993). Because California's long-arm statute allows  
 4 courts to exercise personal jurisdiction to the extent permitted by the Due Process  
 5 Clause of the United States Constitution, this Court need only determine whether  
 6 personal jurisdiction in this case would meet the requirements of due process. *Id.*;  
 7 see *Cal. Code Civ. Proc.* § 410.10.

8 The Due Process Clause mandates that a nonresident defendant must have  
 9 sufficient minimum contacts with the forum state such that the exercise of personal  
 10 jurisdiction does not offend traditional notions of fair play and substantial justice.  
 11 *Decker Coal Co. v. Commonwealth Edison Co.*, 805 F.2d 834, 838 (9<sup>th</sup> Cir. 1986).  
 12 The defendant's conduct and connection with the forum must be such that the  
 13 defendant should reasonably anticipate being haled into court there. *Sher, supra*,  
 14 911 F.2d at 1361, citing *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286,  
 15 297 (1980). Defendant is entitled to protection from suits based on "random,  
 16 fortuitous, or attenuated" contacts with the chosen forum. *Burger King Corp. v.*  
 17 *Rudzewicz*, 471 U.S. 462, 475 (1985).

18 The constitutional standard may be satisfied in one of two ways: through  
 19 general jurisdiction or specific jurisdiction. The burden of showing the existence  
 20 of personal jurisdiction is on the party seeking to invoke the court's jurisdiction.  
 21 *Amber Marketing Sys., Inc. v. Jobar Int'l, Inc.*, 551 F.2d 784, 787 (9<sup>th</sup> Cir. 1977).  
 22 To establish a *prima facie* case, plaintiff must produce admissible documentary  
 23 evidence containing facts sufficient to support a finding of personal jurisdiction.  
 24 *Sher v. Johnson, supra*, 911 F.2d at 1361.

25 A foreign defendant receives deference when determining whether the acts  
 26 of the defendant have a substantial enough connection with the forum state to make  
 27 the exercise of jurisdiction over the defendant reasonable due to its status as a  
 28

1 foreign company. *Dean v. Motel 6 Operating L.P.*, 134 F.3d 1269, 1275-76 (6<sup>th</sup>  
 2 Cir. 1998). “The unique burdens placed upon one who must defend oneself in a  
 3 foreign legal system should have significant weight in assessing the reasonableness  
 4 of stretching the long arm of personal jurisdiction over national borders.” *Asahi*  
 5 *Metal Indust. Co. v. Superior Court of California*, 480 U.S. 102, 114 (1987).

6 **A. Plaintiff Cannot Show That Bumbo-Pty Has the Requisite Minimum  
 7 Contacts with California to Justify General Jurisdiction**

8 General jurisdiction exists if the nonresident’s contacts with the forum are  
 9 continuous and systematic and the exercise of jurisdiction satisfies traditional  
 10 notions of fair play and substantial justice. *Ziegler v. Indian River County*, 64 F.3d  
 11 470, 473 (9<sup>th</sup> Cir. 1995). If general jurisdiction exists, the court has jurisdiction  
 12 over the defendant even if the cause of action is unrelated to the defendant’s forum  
 13 activities. *Omeluck v. Langsten Slip & Batbygerri A/S*, 52 F.3d 267, 270 (9<sup>th</sup> Cir.  
 14 1995).

15 Plaintiff cannot establish sufficient minimum contacts for general  
 16 jurisdiction. Bumbo-Pty is a private company which is organized under the laws  
 17 of South Africa and has its principal place of business in Pretoria, South Africa.  
 18 (Declaration of Johan Buitendach (“Buitendach Decl.”, ¶4., attached as Exhibit  
 19 “E” to Johnston Decl.) A number of facts indicate this lack of jurisdiction. For  
 20 example:

- 21     • Bumbo-Pty does not now have and never has had any office,  
       warehouse or manufacturing facility in California;
- 22     • Bumbo-Pty does not now have and never has any employees in the  
       state of California;
- 23     • Bumbo-Pty does not now and never has had a business license in  
       California;
- 24     • Bumbo-Pty does not now own and never has owned any real or  
       personal property in California;
- 25     • Bumbo-Pty does not now maintain and never has maintained a bank  
       account in California;

- 1     • Bumbo-Pty does not now have and never has had a California  
telephone number;
- 2     • Bumbo-Pty does not now have and never has had a mailing address in  
California;
- 3     • Bumbo-Pty has never paid any taxes in California;
- 4     • Bumbo-Pty has never conducted any meetings of its board of directors  
in California;
- 5     • Bumbo does not maintain a sales force in California;
- 6     • Bumbo-Pty does not now advertise and has never advertised in  
California;
- 7     • Bumbo-Pty does not now have and never has had any agents for  
service of process in California;
- 8     • Bumbo-Pty does not now and never has had any distributors in  
California authorized to accept service of process on behalf of  
Bumbo.

12     (Buitendach Decl.)

13     Based on the above facts, Bumbo-Pty does not have the continuous and  
14     systemic contacts courts require when determining whether the exercise of  
15     jurisdiction satisfies traditional notions of fair play and substantial justice. *Ziegler*,  
16     *supra*, 64 F.3d at 473. The absence of substantial contacts with California is  
17     sufficient for Bumbo-Pty to successfully challenge the exercise of general  
18     jurisdiction. *Helicopteros Nacionales de Columbia, S.A. v. Hall*, 466 U.S. 408,  
19     416 (1984).

20     **B. This Court Cannot Assert Specific Jurisdiction Over Bumbo-Pty**

21     The Ninth Circuit applies a three-part test in determining whether it may  
22     assert specific jurisdiction over a defendant:

- 23         • the defendant must perform an act or consummate a transaction within  
24             the forum, purposefully availing itself of the privilege of conducting  
25             activities in the forum and invoking the benefits and protections of its  
26             laws;

- 1           • the claim must arise out of or result from the defendant's forum-
- 2           related activities; *and*
- 3           • the exercise of jurisdiction must be reasonable.

4           *Rano v. Sipa Press, Inc.*, 987 F.2d 299, 301 (9<sup>th</sup> Cir. 1993).

5           The determination of specific jurisdiction is a conjunctive test which "turns  
 6 on an evaluation of the nature and quality of defendant's contacts in relation to the  
 7 cause of action." *Data Disc., Inc. v. Sys. Technology Assoc., Inc.*, 557 F.2d 1280,  
 8 1287 (9<sup>th</sup> Cir. 1977). The party asserting jurisdiction has the burden of proof once  
 9 the issue is raised. *Wood v. Santa Barbara Chamber of Commerce*, 705 F.2d 1515,  
 10 1522 (9<sup>th</sup> Cir. 1983).

11           "With respect to goods and services in the international marketplace, the  
 12 mere placement of a product into the stream of commerce is not necessarily  
 13 sufficient to establish jurisdiction." *VCS Samoa Packing Co. v. Blue Continent  
 14 Products (PTY) Ltd.*, 83 F. Supp. 2d 1151, 1154 (S.D. Cal. 1998), citing *World-*  
*15 Wide Volkswagen Corp.*, *supra*, 444 U.S. at 297-298. "Defendant's awareness that  
 16 the stream of commerce may or will sweep the product into the forum State does  
 17 not convert the mere act of placing the product into the stream into an act  
 18 purposefully directed toward the forum State." *Asahi Metal Ind. v. Sup. Ct.*, 480  
*19 U.S. 102, 112* (1987). "Moreover, indirect or attenuated contacts or the unilateral  
 20 activity of a third party will not support the exercise of specific jurisdiction since it  
 21 cannot be said that defendant purposely availed himself of the benefits of the  
 22 forum." *VCS Samoa Packing Co.*, *supra*, 83 F. Supp. 2d at 1154, citing, *Keeton v.*  
*23 Hustler Magazine, Inc.*, 465 U.S. 770, 775 (1984).

24           In the case of *Felix v. Bomoro Kommanditgesellschaft*, 196 Cal. App. 3d 106  
 25 (1987), the court found that "the degree to which a foreign corporation interjects  
 26 itself into the forum state directly affects the fairness of subjecting it to  
 27 jurisdiction. The smaller the element of purposeful interjection, the less is

1 jurisdiction to be anticipated and the less reasonable is its exercise.” *Id.* at 115.  
 2 “Additional conduct of the defendant may indicate an intent or purpose to serve the  
 3 market in the forum State, for example, designing the product for the market in the  
 4 forum state, advertising in the forum State, establishing channels for providing  
 5 regular advice to customers in the forum State . . . .” *Id.* at 116, quoting, *Asahi*  
 6 *Metal Ind.*, *supra*, 480 U.S. at 112.

7 Applying these principles to the instant case, it would be manifestly unjust to  
 8 require Bumbo-Pty to defend against plaintiff’s suit in California. Bumbo-Pty is  
 9 incorporated in South Africa and is not licensed to do business in California.  
 10 Bumbo-Pty has no office, affiliate, subsidiary, employee, agent, bank accounts or  
 11 business operations in the state. The only possible contacts that Bumbo-Pty could  
 12 be said to have with California are by way of the fact that Target, a Minnesota  
 13 corporation, has retail stores in California that sold the Baby Sitter. The product  
 14 itself, however, is manufactured in South Africa. It was not designed specifically  
 15 for the California market. In this case, the finished product was sold and  
 16 distributed by Target, not Bumbo-Pty. Target is a corporation that has stores  
 17 located nationwide, not just in California. Bumbo-Pty has not advertised, solicited  
 18 any business, or otherwise sought to serve any particular market in this state. The  
 19 extent to which Bumbo-Pty could reasonably anticipate being involved in litigation  
 20 in California was minimal at best.

## 21 CONCLUSION

22 By this motion, Bumbo-Pty seeks two forms of relief:

- 23 • that the ineffective attempt at service of process be quashed; and
- 24 • that any claim against Bumbo-Pty be dismissed as this Court cannot
- 25 exercise personal jurisdiction over defendant.

26 The facts are clear: in spite of a clearly stated statute, plaintiff’s counsel  
 27 insists on improperly attempting service on Bumbo-Pty and then forcing defense

1 counsel to repeatedly file and serve motions to quash/dismiss . Bumbo-Pty has not  
2 been served in this action, has not appeared in this action and does not have any  
3 contacts, let alone constitutionally required minimum contacts, with this forum  
4 state.

5  
6 Dated: February 14, 2008

CONDON & FORSYTH LLP

7  
8 By: s/Jennifer J. Johnston

9 ROD D. MARGO  
JENNIFER J. JOHNSTON

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11 Attorneys for *Specially Appearing*  
12 Defendant  
13 BUMBO (PTY) LTD.  
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6 | Attorneys *Specially Appearing* for Defendant  
BUMBO (PTY) LTD.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

19 On March 24, 2008, the Motion of Defendant, Bumbo (Pty) Ltd. to Quash  
20 and Dismiss for Insufficient Service of Process and Lack of Personal Jurisdiction  
21 came on for hearing before this Court in the Courtroom of the Honorable Marilyn  
22 Hall Patel.

23 After full consideration of the papers and pleadings on file in the action and  
24 admissible evidence, the Court finds:

25           1. Plaintiff has failed to effect service of process on defendant, Bumbo  
26 (Pty) Ltd.

27        2. This Court lacks *in personam* jurisdiction over Bumbo (Pty) Ltd., a  
28 South African corporation with its principal and only place of business in South

1 Africa, because Bumbo (Pty) Ltd. does not have the requisite minimum contacts  
2 with California.

3 IT IS THEREFORE ORDERED that:

4 1. Service of process on "Bumbo" is quashed;  
5 2. All claims against Bumbo (Pty) Ltd. are dismissed for insufficient  
6 service of process and lack of personal jurisdiction.

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9 Dated: \_\_\_\_\_

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12 UNITED STATES DISTRICT JUDGE  
13 HONORABLE MARILYN HALL PATEL  
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